

ESTTA Tracking number: **ESTTA641577**

Filing date: **11/26/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

### Petitioner Information

Name	Little Busy Bodies, LLC		
Entity	Limited Liability Company	Citizenship	Ohio
Address	1130 Findlay Street Cincinnati, OH 45214 UNITED STATES		

Attorney information	Hillary A. Brooks Marger Johnson & McCollom, P.C. 210 SW Morrison Street, Ste. 400 Portland, OR 97204 UNITED STATES litigationdocketing@techlaw.com, hillary.brooks@techlaw.com, lisadavis@techlaw.com Phone:503-222-3613
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### Registration Subject to Cancellation

Registration No	4539281	Registration date	05/27/2014
Registrant	PEDIATRIC INNOVATIONS USA, LLC 1450 N.W. 87 Avenue, Suite 210 Doral, FL 33172 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 010. First Use: 2014/02/14 First Use In Commerce: 2014/02/14 All goods and services in the class are cancelled, namely: nasal aspirators and filters for nasal aspirators
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### Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is merely descriptive	Trademark Act section 2(e)(1)
Other	Likelihood of confusion with Petitioner's family of marks - Trademark Act section 2(d)



### Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	4162748	Application Date	04/01/2009
Registration Date	06/26/2012	Foreign Priority Date	NONE
Word Mark	BOOGIE		

Design Mark	<b>BOOGIE</b>
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 2007/11/00 First Use In Commerce: 2007/11/00 Baby wipes; disposable nasal wipes impregnated with saline; disposable wipes impregnated with saline for personal hygiene; pre-moistened cosmetic wipes; scent-infused pre-moistened cosmetic wipes; moisturizing disposable wipes impregnated with cleansing chemicals or compounds for personal hygiene; moisturizing baby wipes for animals; pre-moistened cosmetic wipes for animals

U.S. Registration No.	3541165	Application Date	07/18/2007
Registration Date	12/02/2008	Foreign Priority Date	NONE
Word Mark	BOOGIE WIPES		
Design Mark	<b>BOOGIE WIPES</b>		
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2007/11/00 First Use In Commerce: 2007/11/00 wipes for noses, namely, disposable paper materials impregnated with saline		

U.S. Registration No.	3750406	Application Date	05/28/2008
Registration Date	02/16/2010	Foreign Priority Date	NONE
Word Mark	BOOGIE MOMS		
Design Mark	<b>BOOGIE MOMS</b>		
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2008/02/00 First Use In Commerce: 2008/02/00		

	wipes for noses, namely, disposable paper materials impregnated with saline		
U.S. Registration No.	3560905	Application Date	06/05/2008
Registration Date	01/13/2009	Foreign Priority Date	NONE
Word Mark	BOOGIES ON THE RUN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2008/03/01 First Use In Commerce: 2008/03/01 wipes for noses, namely, disposable paper materials impregnated with saline		
U.S. Registration No.	4109524	Application Date	05/14/2010
Registration Date	03/06/2012	Foreign Priority Date	NONE
Word Mark	BOOGIE BUDDY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 2010/08/00 First Use In Commerce: 2010/08/00 plush toys; fluff toys; stuffed toys; stuffed toy animals; dolls; promotional toys, namely, stuffed animals		
Attachments	77704750#TMSN.png( bytes ) 77233002#TMSN.png( bytes ) 77485579#TMSN.png( bytes ) 77492320#TMSN.png( bytes ) 85039330#TMSN.png( bytes ) 00136118.PDF(80343 bytes )		

## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Hillary A. Brooks/
Name	Hillary A. Brooks
Date	11/26/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of U.S. Trademark Registration No. 4,539,281  
For the mark: BREATHEASIER BOOGIES BE GONE!  
Filed: February 15, 2013  
Published: July 9, 2013  
Registered: May 27, 2014

LITTLE BUSY BODIES, LLC,	)	
	)	Cancellation No. _____
Petitioner,	)	
	)	
v.	)	
	)	
PEDIATRIC INNOVATIONS USA, LLC,	)	
	)	
Registrant.	)	

**PETITION TO CANCEL**

1. Little Busy Bodies, LLC, an Ohio limited liability company having a business address of 1130 Findlay Street, Cincinnati, Ohio 45214 (“Petitioner”), believes that it is damaged by registration of the mark BREATHEASIER BOOGIES BE GONE! that is the subject of U.S. Trademark Registration No. 4,539,281 (“Registrant’s BREATHEASIER BOOGIES BE GONE! Mark”) for “nasal aspirators and filters for nasal aspirators” registered May 27, 2014, by Pediatric Innovations USA, LLC, a Florida limited liability company having an address of record of 1450 N.W. 87 Avenue, Suite 210, Doral, Florida 33172 (“Registrant”). Petitioner requests cancellation of U.S. Trademark Registration No. 4,539,281.

As first grounds for cancellation, Petitioner alleges as follows:

2. Petitioner owns U.S. Trademark Registration No. 4,162,748 for the mark BOOGIE for “baby wipes; disposable nasal wipes impregnated with saline; disposable wipes impregnated with saline for personal hygiene; pre-moistened cosmetic wipes; scent-infused pre-moistened cosmetic wipes; moisturizing disposable wipes impregnated with cleansing chemicals or compounds for personal hygiene; moisturizing baby wipes for animals; pre-moistened

cosmetic wipes for animals” issued June 26, 2012. Petitioner owns U.S. Trademark Registration No. 3,541,165 for the mark BOOGIE WIPES for “wipes for noses, namely, disposable paper materials impregnated with saline” issued December 2, 2008. Petitioner owns U.S. Trademark Registration No. 3,750,406 for the mark BOOGIE MOMS for “wipes for noses, namely, disposable paper materials impregnated with saline” issued February 16, 2010. Petitioner owns U.S. Trademark Registration No. 3,560,905 for the mark BOOGIES ON THE RUN for “wipes for noses, namely, disposable paper materials impregnated with saline” issued January 13, 2009. Petitioner owns U.S. Trademark Registration No. 4,109,524 for the mark BOOGIE BUDDY for “plush toys; fluff toys; stuffed toys; stuffed toy animals; dolls; promotional toys, namely, stuffed animals” issued March 6, 2012. (Collectively, “BOOGIE Marks”).

3. Registrant’s BREATHEASIER BOOGIES BE GONE! Mark so resembles Petitioner’s previously registered BOOGIE Marks as to be likely, when used on or in connection with the goods of Registrant, to cause confusion, mistake, or deception.

As second, alternative, grounds for cancellation, Petitioner alleges as follows:

4. Petitioner, since prior to Registrant’s filing date or any date of first use upon which Registrant can rely, has used and not abandoned its BOOGIE Marks as trademarks for disposable nasal wipes and/or other related goods.

5. Registrant’s BREATHEASIER BOOGIES BE GONE! Mark so resembles Petitioner’s BOOGIE Marks as to be likely, when used on or in connection with the goods of Registrant, to cause confusion, mistake, or deception.

As third, alternative, grounds for cancellation, Petitioner alleges as follows:

6. Petitioner is the owner of a family of BOOGIE marks, including BOOGIE, BOOGIE WIPES, BOOGIE MOMS, BOOGIES ON THE RUN, and BOOGIE BUDDY for disposable nasal wipes and/or other related goods.

7. Petitioner, since prior to Registrant's filing date or any date of first use upon which Registrant can rely, has used and promoted its marks BOOGIE, BOOGIE WIPES, BOOGIE MOMS, BOOGIES ON THE RUN, and BOOGIE BUDDY as a family of marks.

8. Registrant's BREATHEASIER BOOGIES BE GONE! Mark is so similar to Petitioner's family of marks that, when used on or in connection with the goods of Registrant, is likely to be perceived as another member of Petitioner's family of marks, and is likely to cause confusion, mistake, or deception.

As fourth, alternative, grounds for cancellation, Petitioner alleges as follows:

9. Registrant's BREATHEASIER BOOGIES BE GONE! Mark when used on or in connection with the goods of Registrant is merely descriptive.

Petitioner requests the Board cancel U.S. Trademark Registration No. 4,539,281.

Dated this 26<sup>th</sup> day of November, 2014.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.

/Hillary A. Brooks/  
Hillary A. Brooks  
Registration No. 45,815  
Attorney for Petitioner

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Portland, OR 97204  
(503) 222-3613

**CERTIFICATE OF ELECTRONIC FILING**

The undersigned hereby certifies that this PETITION TO CANCEL was electronically filed with the Trademark Trial and Appeal Board on November 26, 2014.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing PETITION TO CANCEL was served upon Registrant on November 26, 2014, by forwarding said copy via First Class Mail to the Attorney/Correspondent Address of Record as follows:

Michael B. Chesal  
PERETZ CHESAL & HERRMANN, P.L.  
2 S. Biscayne Blvd., Suite 3700  
Miami, FL 33131

/Lisa Davis/  
Lisa Davis